

## PURPOSE

Detention and jail are the most restrictive placements available and do not provide rehabilitative treatment for juvenile offenders. The assigned juvenile justice specialist (JJS) must ensure that alternatives to placement in detention or jail are considered and when it is necessary to place a youth in detention or jail, the restrictions on placement in detention or jail are followed.

To provide detention alternatives including regional detention support services (RDSS), as well as criteria and restrictions for youth placement in detention and jail and to provide requirements on:

- Deinstitutionalization of status offenders.
- Removal of youth from adult jails and lockups.
- Sight and sound separation of youth from adult detainees.

## JUVENILE DETENTION ALTERNATIVES

Planning for the youth referred or committed to the Michigan Department of Health and Human Services (MDHHS) must be based on all of the following:

- The most recent juvenile justice strengths and needs assessment.
- Michigan Juvenile Justice Assessment System (MJJAS) Dispositional Assessment or MJJAS Diversion assessment.
- Community safety.
- Court recommendations.
- Assurance that reasonable efforts have been made to prevent removal from the family.
- Active efforts have been made to prevent removal of a status offender who is an Indian child from their family. See [NAA 215, Placement/Replacement Priorities for Indian Children](#).

When a youth is referred or committed to MDHHS or has violated a valid court order, an evaluation should be made to determine if a youth can be served in his or her own home or if replacement is necessary for the youth's treatment and/or their family and public safety. The treatment and placement continuum must be

considered beginning with the least restrictive placement for the assigned risk level. The treatment and placement continuum includes, but is not limited to, MCL 712A.18:

- Judicial warning to youth or parent(s) or legal guardian(s) and dismissal of petition.
- Fines, restitution, community service and/or curfew restrictions.
- New assessment and/or community-based treatment services to address current offense behaviors and needs.
- Order for parent(s) or legal guardian to refrain from conduct that might be harmful to the youth and/or to participate in treatment.
- In home detention and community-based treatment services.
- In home electronic monitoring and community-based treatment services.
- Foster or relative home placement and community-based treatment services.
- Non-secure residential placement with treatment services.
- Secure residential placement or hospitalization with treatment services.
- Secure juvenile detention facility.
- Adult jail, detention or lockup.

**Note:** If a youth charged with a status offense is an Indian child and is removed from the home and placed in foster care, refer to MCL 712B.3(b) and placement preferences in [NAA 215, Placement/Replacement Priorities for Indian Children](#).

## REGIONAL DETENTION SUPPORT SERVICES

Regional detention support services (RDSS) provide alternatives to juvenile detention or adult jail for youth who have been arrested and who are awaiting a hearing and/or a placement. Services include holdover, home detention, electronic monitoring, and transportation to and from the juvenile detention facilities in

Michigan utilizing trained volunteers as attendants and transporters. RDSS are accessed through Juvenile Justice Programs by calling 517-355-6144.

### Eligibility and Cost

Eligibility for RDSS is determined by the county of jurisdiction and includes the sixty rural counties and Native American tribal jurisdictions in Michigan that do not have a secure detention facility.

In counties with a population of 75,000 or less, the costs of RDSS are 100 percent reimbursable. In counties with a population over 75,000 the reimbursement rate is 50 percent.

### Holdover in Rural Counties

Non-secure holdover sites may be used for up to 16 hours in rural counties for any youth who cannot be returned home. Holdover sites may be located at a sheriff's office, state police post, county service center, detoxification center, community mental health center, local hospital, or similar facility. An attendant must provide one-on-one supervision. Mechanical restraints may not be used on detained youth during holdover.

**Note:** An 8-hour extension from 16 hours to a total of 24 hours may be made in unusual situations with **advance** approval.

See [Regional Detention Support Services \(RDSS\)](#) handbook for eligibility and extension request procedure.

### Home Detention

Home detention may be provided to youth placed in his or her own home pre-adjudication or post-adjudication. A contract must be signed by the youth, the parent(s), and the court, outlining conditions that must be followed during this time. Supervision takes the form of daily contacts with the youth to ensure the contract conditions are met.

Youth receiving this service must have a preliminary hearing or a post-disposition review hearing with a court order authorizing home detention. The local court of jurisdiction may recruit and supervise volunteers who are paid a daily stipend to provide home detention supervision. The length of home detention for pre-adjudication can be a maximum of 90 days and for post-adjudication a maximum of 30 days.

See [Regional Detention Support Services \(RDSS\)](#) handbook for procedure information and eligibility.

### Transportation To and From Juvenile Detention

When a secure juvenile detention facility is not available in the county of jurisdiction, RDSS provides funds for transporters and attendants to transport a youth:

- To pick up or drop off a youth at his/her home.
- To placement in one of the approved, secure juvenile detention facilities in Michigan.
- To and/or from court to one of the approved, secure juvenile detention facilities.
- From one of the approved, secure juvenile detention facilities to a final placement.
- Return of a runaway who has been picked up by authorities in another county of residence.
- A trip from holdover to a doctor or hospital for **emergency** treatment.
- A trip from a detention center to a psychiatric or psychological examination.

Transportation costs which are excluded and non-reimbursable include:

- Transportation to or from a transporter's or attendant's home to the court.
- Returning out-of-state youth arrested in Michigan to their home state, unless that county borders on state lines which allows travel up to 50 miles into or out of the state to pick up or return a runaway to a county of residence.
- Returning a youth from Michigan arrested in another state back to Michigan.
- Transferring youth to and from treatment programs at detention centers.

- Transporting youth from residential programs to court hearings.
- Transporting youth from secure detention facilities to routine doctor and/or dental appointments.

See [Regional Detention Support Services \(RDSS\)](#) handbook for procedure information and eligibility.

### Electronic Monitoring (EM)

Electronic monitoring (EM), also known as tether, may be used for pre-disposition and as a disposition. Pre-disposition, a youth must be placed on home detention before EM can be utilized. Post-disposition, a youth must have been adjudicated for a violation of law or probation violation. A court order must document the youth is targeted for jail, detention, a foster home, group home, a state run, or private residential treatment program and that community-based treatment combined with electronic monitoring is an alternative to that placement.

The youth must be court ordered on electronic monitoring as a part of a case-specific plan. Electronic monitoring may be used for thirty days to a maximum of 90 days. This period may be extended with a court order and approval by RDSS. The specific duration must be determined by an assessment of the youth's risk factors, strengths and needs, and attainment of treatment goals.

The assigned JJS must be available or provide appropriate back up after hours and on weekends for emergency curfew changes and/or trouble shooting with the Department of Corrections Monitoring Unit as necessary. Local office staff must establish procedures to receive notification during non-working hours and an after-hours telephone number must be provided to the monitoring unit.

See [Regional Detention Support Services \(RDSS\)](#) handbook for procedure and eligibility.

### JUVENILE DETENTION

Detention and jail are the most restrictive placements available and are not designed to provide rehabilitative treatment for youth. The assigned JJS must ensure that alternatives to placement in detention or jail are considered and that when a youth is court ordered to detention or jail, the restrictions on placement are followed.

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## Status Offenders

Pursuant to 34 USC 11133(11)(A), youth who have been charged with or who have committed a status offense must not be placed in a detention or other secure facilities, unless the youth:

- Committed a violation of a valid court order.
- Is being held in accordance with the Interstate Compact on Juveniles; see [ICM 160, Interstate Runaway, Escapee and Absconder Procedures](#).
- Has been charged with a gun violation under 18 USC 922(x)(2) or similar state law.

Research shows that placement in detention or other secure facilities causes more harm than good when used for status offenders. MDHHS staff must **not** recommend the use of detention or other secure facilities for any youth adjudicated of a status offense or for a status offender that has violated a valid court order.

A status offense is a noncriminal act that is considered a law violation only because of a youth's status as a minor or probation violation that is the equivalent of a status offense.

Truancy, curfew violations, incorrigibility, running away and underage alcohol offenses are considered status offenses for federal compliance.

Offenses such as operating under the influence of alcohol, which are criminal offenses for all adults (not just those under 21), would not be considered status offenses for youth.

In the event a status offender is taken into custody for violating a valid court order, the following must occur in accordance with the Probate Code, 1939 PA 288, MCL 712A.15(3):

- The petitioner shall ensure that an appropriately trained, licensed, or certified mental health or substance abuse professional interviews the youth in person within 24 hours of admission to assess the immediate mental health and substance abuse needs of the youth. The assessment can be done prior to filing a petition.

- Within 48 hours of placement in the secure facility, the petitioner shall submit the assessment to the court and the court shall conduct a hearing.

**Note:** MDHHS must not file a petition requesting detention or secure facility for a status offender and therefore will not be responsible for completing these steps.

If the court orders a status offender to a detention or other secure facility for violation of such order, the court shall issue a written order that complies with the Probate Code, 1939 PA 288, MCL 712A.15(3)(a)(b):

- There is reasonable cause to believe that the status offender violated the court order.
- The appropriate placement of the status offender pending the disposition of the alleged violation, including if the status offender is court ordered into a detention or other secure facility.

If the court determines the status offender violated a valid court order and issues an order for detention or other secure facility, the written court order must include the following items to comply with the Probate Code, MCL 712A.18(1)(k)(i)-(v):

- The valid court order that has been violated.
- The factual basis for determining that there is reasonable cause to believe that the status offender has violated such order.
- The finding of fact to support a determination that there is no appropriate less restrictive alternative available to placing the youth in such a facility, considering the best interest of the youth.
- The length of time, not to exceed seven days, that the status offender may remain in detention or other secure facility.
- Includes a plan for the status offenders release from such facility.
- The order may not be renewed or extended.

The court may not issue a second or subsequent order unless the status offender violates a valid court order after the date on which

the court issues an order and there are procedures in place to ensure the status offender does not remain in custody longer than seven days or the length of time authorized by the court, whichever is shorter. MCL 712A.18(1)(l)(i)(ii).

If a JJS has information that a status offender is in detention or other secure facility in violation of the above requirements, the JJS must report the suspected violation via email at [Juvenile-Justice-Policy@michigan.gov](mailto:Juvenile-Justice-Policy@michigan.gov) and include as much of the following information as possible:

- Name of youth.
- Date of birth.
- Name of detention or secure facility.
- Length of stay.
- Status offense type.
- Date of status offense.

### Court-Ordered Juvenile Detention

Juvenile detention facilities are not designed for rehabilitation and therefore should be used only when necessary and for a limited time. The JJS may recommend juvenile detention for temporary placement of a youth only in the scenarios listed below but never in the case of a status offender as noted above; see *juvenile detention alternatives* in this item for more information on alternatives.

The court may order a youth placed in juvenile detention pending a hearing if the court finds probable cause to believe the youth committed the offense, and one or more of the following are true MCL 712A.15(2)(a)-(f):

- Home conditions make immediate removal necessary.
- Youth's historical record of unexcused failures to appear at juvenile court proceedings.
- Youth has failed to remain in detention or nonsecure facility or placement in violation of a court order.
- Serious offense that release would endanger public safety.
- Violation of a personal protection order and for whom it appears there is a substantial likelihood of retaliation or continued violation.



- Those who have allegedly violated a court order under MCL 712A.2(a)(2) to (4), which includes running away, incorrigibility and truancy. In these instances, MDHHS must **not** file a petition requesting detention or secure facility.

**Note:** A risk-based assessment should be completed to consider recommending release of the youth to their parent/guardian with a safety plan and services pending a hearing.

See [JJM 220, Court Orders for Referrals/Commitment & Title IV-E Eligibility](#) for instructions to remedy problematic court orders.

### Detention Beyond 30 Days

A youth must be removed from detention when the court order for detention ends. If a youth is court-ordered to remain in detention for more than 30 calendar days, the *juvenile detention or court treatment facility placement will exceed 30 days* placement exception request must be completed in MiSACWIS. Approval must be obtained from the local office director or designee prior to the 30th calendar day. If the request is denied, the youth must be moved from detention within five calendar days.

### Payment for Detention Care

For instruction regarding payment, see [FOM 903-02, Payment for Detention Care](#).

## JAIL, ADULT DETENTION OR LOCKUP

### Youth Under Age 17

Youth under age 17 who are taken into custody or detained must not be confined in a:

- Police station.
- Lockup.
- Jail.
- Prison.

Youth under 17 years of age taken into custody must not be transported with or be permitted to associate with adult inmates.

The youth must be out of sight and sound of any adult offenders. MCL 764.27a.

***Exception:*** A court may order a youth age 15 years or older to be placed in jail or another detention facility for adults, separated from adults by both sight and sound. The court must determine that the youth is a menace to other delinquent youth or may not otherwise be safely detained. MCL 712A.15(5) and 712A.16(1).

## Violations

If a JJS has information that a youth is placed in jail, adult detention or lockup in violation of the above requirements, the JJS must report the suspected violation via email at [Juvenile-Justice-Policy@michigan.gov](mailto:Juvenile-Justice-Policy@michigan.gov) and include as much of the following information as possible:

- Name of youth.
- Date of birth.
- Name of jail, adult detention or lockup facility.
- Length of stay.
- Offense type.
- Date of offense.

## LEGAL

### Federal

#### **Juvenile Justice and Delinquency Prevention, 34 USC 11133 (11)(A).**

Provides exclusions for when youth charges with a status offense may be placed in a secure detention facility or secure correctional facility.

#### **Prison Rape Elimination Act National Standards for Prisons and Jails, 28 CFR 115.14.**

Any person under the age of 18, and incarcerated or detained in a prison or jail, must be housed separately from any adult inmates and, outside the housing unit, *sight and sound separation* or direct staff supervision must be maintained. Agencies must use best efforts to avoid using isolation to comply with these conditions and must afford youthful inmates the opportunity for daily large-muscle exercise, and to take part in special education services, programs and work opportunities, absent exigent circumstances. This

standard demands significant resources, so agencies are afforded flexibility in finding a way to comply.

**Gun Control Act of 1968, 18 USC, 922(x)(2)-(6).**

Specifies prohibitions of juveniles knowingly possessing a handgun or ammunition.

**State**

**2020 PA 361.**

Public act that amends the Probate Code, 1939 PA 288.

**The Probate Code, 1939 PA 288, as amended.**

**MCL 712A.15(2)(a)-(f)**

Custody, pending hearing, is limited to the following children:

- Those whose home conditions make immediate removal necessary.
- Those who have a record of unexcused failures to appear at juvenile court proceedings.
- Those who have run away from home.
- Those who have failed to remain in a detention or nonsecure facility or placement in violation of a court order.
- Those whose offenses are so serious that release would endanger public safety.
- Those who have allegedly violated a personal protection order and for whom it appears there is a substantial likelihood of retaliation or continued violation.

**MCL 712A.15(3).**

If a juvenile is taken into custody for violating a court order under section 2(a)(2) to (4) of this chapter and is detained in a secure facility, the petitioner shall ensure that an appropriately trained, licensed, or certified mental health or substance abuse professional interviews the juvenile in person within 24 hours to assess the immediate mental health and substance abuse needs of the juvenile. The assessment may

alternatively be done upon filing the petition, prior to any order for placement in a secure facility. Within 48 hours of the placement in the secure facility, the petitioner shall submit the assessment to the court and the court shall conduct a hearing.

**MCL 712A.15(3)(a)(b).**

Within 48 hours of the placement in the secure facility, the petitioner shall submit the assessment to the court and the court shall conduct a hearing to determine all of the following:

If there is reasonable cause to believe that the juvenile violated the court order.

The appropriate placement of the juvenile pending the disposition of the alleged violation, including if the juvenile should be placed in a secure facility.

**MCL 712A.15(5).**

Provides requirements and limitations on youth being detained pending a hearing in a jail or secure facility designed to incarcerate adults.

**MCL 712A.16(1).**

Provides restrictions on what type of a facility a youth under the age of 17 years can be confined when taken into custody or detained.

**MCL 712A.18.**

Provides guidelines for disposition orders appropriate to the welfare of the juvenile and society in view of the facts proven and ascertained.

**MCL 712A.18(1)(k)(i)-(v).**

If the court finds that the juvenile has violated a court order under section 2(a)(2) to (4) of this chapter, order the juvenile to be placed in a secure facility. A court order under this subdivision must state all of the following:

The court order the juvenile violated.

The factual basis for determining that there was reasonable cause to believe that the juvenile violated the court order.

The court's finding of fact to support a determination that there is no appropriate less restrictive alternative placement available considering the best interests of the juvenile.

The length of time, not to exceed 7 days, that the juvenile may remain in the secure facility and the plan for the juvenile's release from the facility.

That the order may not be renewed or extended.

**MCL 712A.18(1)(I)(i)(ii).**

For a second or subsequent violation of a court order under section 2(a)(2) to (4) of this chapter, issue a second or subsequent order under subdivision (k), but only if the court finds both of the following:

The juvenile violated a court order after the date that the court issued the first order under subdivision (k).

The court has procedures in place to ensure that a juvenile held in a secure facility by a court order is not in custody more than 7 days or the length of time authorized by the court, whichever is shorter.

## POLICY CONTACTS

Juvenile justice supervisors and management may submit policy clarification questions to [juvenile-justice-policy@michigan.gov](mailto:juvenile-justice-policy@michigan.gov).